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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,695	02/25/2004	Neal Dulaney	35269US1	3686

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EXAMINER	
VALENTI, ANDREA M	

ART UNIT	PAPER NUMBER
3643	

DATE MAILED: 08/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/786,695	DULANEY, NEAL	
	Examiner	Art Unit	
	Andrea M. Valenti	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 June 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5,9,12-18 and 30-32* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5, 9,12-18,30-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims *1-5, 9, 12, 13, 16-18 and 30-32* are rejected under 35 U.S.C. 103(a) as being unpatentable over FILTERSTAR, S/ENS:841553-01 Inlet pipe; S/ENS:841545-01 Outlet pipe; 3 pages in view of U.S. Patent No. 5,542,451 to Foster.

Regarding Claims 1 and 18, FILTERSTAR teaches a modular water flow system for an aquarium (FILTERSTAR page 1 and 2) comprising: a water intake system (FILTERSTAR page 1 Inlet pipe) wherein the water intake system pulls water in from the aquarium through an inlet (FILTERSTAR page 1 Inlet Pipe, shaded pipe in the Fig.) which customizably pulls water in from multiple locations of the aquarium due to a propulsive force created by the pump (FILTERSTAR page 3 teaches it is customizable and is capable of being positioned at various locations within the aquarium); a water return system (FILTERSTAR page 2 Outlet pipe) wherein the water return system permits the water to return to the aquarium from multiple outlets customizable located in multiple locations of the aquarium (FILTERSTAR page 2 Outlet pipe has multiple outlets along its length thus "multiple locations" plus the pipe can be customizable located to different sides of the aquarium page 3); at least one valve assembly (FILTERSTAR page 3 Fig. G) to manage at least one of the water return system and the water intake

system to regulate a flow rate. Both the water intake and the water return system of FILTERSTAR can be positioned at different locations within the aquarium and are thus movably located.

FILTERSTAR teaches the water intake and water return systems have exterior portions outside of the tank and multiple interchangeable components. FILTERSTAR teaches a modular aquarium that regulates flow rate (FILTERSTAR, page 3 English Included section) with an overwall assembly unit (FILTERSTAR page 3 Fig. D and page1 and 2) which couples the interior portions of the modular water flow system to the exterior portions of the modular water flow system via a link wherein the link comprises at least one inlet port which is connected to at least one of the interior portions of the modular water flow system and at least one outlet port which is connected to at least one of the exterior portions of the modular water flow system, and the at least one inlet port is rotatably coupled to the corresponding interior portion of the modular water flow system; multiple interchangeable components connected to manipulate the flow of water into a desired pattern; and multiple attachment mechanisms (FILTERSTAR page 3 Included, spray bar and outlet nozzle) coupled to the interchangeable components which attach the interchangeable components to the aquarium (FILTERSTAR page 3 Included, set of suction cups).

FILTERSTAR is silent on explicitly teaching the water intake system pulls water in from the aquarium through multiple inlets and a pump. However, Foster teaches a pump (Foster #27) and general knowledge that it is desirable to pull the water through multiple inlet pipes located at multiple locations throughout the aquarium (Foster Fig.

10a', 10b', 10c'). It would have been obvious to one of ordinary skill in the art to modify the teachings of FILTERSTAR with the general knowledge taught by FOSTER since the modification is merely the duplication of a known element (i.e. inlet) multiplied for a multiple effect performing the same intended function modified for the advantage of creating regular natural currents as taught by Foster [*In re Harza*, 274 F.2d 669,671, 124 USPQ 378,380 (CCPA 1960)].

Regarding Claim 2, FILTERSTAR as modified teaches wherein the water intake system, the water return system, and the at least one valve assembly are coupled by connecting pieces (FILTERSTAR page 1-3 and Fig. D and Foster Fig. 6 #59 and 49 are connected by a series of modular pipes).

Regarding Claim 3, FILTERSTAR as modified teaches wherein the connecting pieces further comprise at least one of the following: a coupling bracket, a tee bracket, and an elbow bracket (Foster Fig. 6 shows an elbow bracket attached between #47 and 49 and FILTERSTAR reaches elbows in Fig. D page 3).

Regarding Claims 4 and 5, FILTERSTAR as modified teaches wherein the connecting pieces are coupled to an attachment mechanism (FILTERSTAR page 3 Included, suction cups).

Regarding Claim 9, FILTERSTAR as modified teaches the outlet port is rotatably coupled to the corresponding exterior portion of the modular water flow system (FILTERSTAR page 3 and page 2).

Regarding Claim 16, FILTERSTAR as modified teaches wherein the water return system further comprises at least one spray bar having at least one aperture (Foster Fig. 13 #60 and FILTERSTAR page 3 Fig. G).

Regarding Claim 17, FILTERSTAR as modified teaches at least one pipe (Foster Fig. 6 section between #47 and elbow of #49 and FILTERSTAR Fig. D) connected on each end by at least one connecting piece and located between the water intake system and the water return system.

Regarding Claim 30, FILTERSTAR as modified teaches the inlet portion is rotatably coupled to the interior portions of the modular water flow system to facilitate positioning of the modular water flow system (FILTERSTAR page 1 and page 3).

Regarding Claim 31, FILTERSTAR as modified teaches at least one valve assembly to manage at least one of the water return system and the water intake system to regulate a flow rate wherein the valve assembly further comprises one or more openings and a regulator which regulates the rate at which water enters the water intake system or the rate at which water returns from the water return system. (Foster Col. 10 line 10-12 and element #17 is attached to the motor Col. 6 line 11-14 and motor speed is adjustable Col. 6 line 42-49; FILTERSTAR page 3 Included "flow adjustment valve", and FIG. G).

FILTERSTAR is silent on explicitly teaching that the water intake system has a valve assembly to regulate flow rate. However, it would have been obvious to one of ordinary skill in the art to modify the teachings of FILTERSTAR at the time of the invention since the modification is merely the duplication of a known element

(FILTERSTAR page 3 Fig. G) modified for the advantage of controlling water flow at different locations in the system during maintenance procedures. Furthermore, the valve of Foster controls the flow rate of the intake. It would have been obvious to one of ordinary skill in the art to further modify the teachings of FILTERSTAR with the teachings of Foster at the time of the invention to create a natural current as taught by Foster (Foster Col. 10 line 2).

Regarding Claim 32, FILTERSTAR as modified teaches wherein the regulator further comprises an adjustment mechanism adjustable by an aquarist, which regulates the rate at which the water enters the water intake system or the rate at which the water returns from the water return system (Foster Col. 10 line 10-12 and element #17 is attached to the motor Col. 6 line 11-14 and motor speed is adjustable Col. 6 line 42-49 the aquarist can adjust valve #58 and the motor speed; FILTERSTAR page 3 Included "flow adjustment valve" can be adjusted by the valve handle).

Regarding Claim 12, FILTERSTAR as modified teaches at least one cap which can seal at least one of the one or more openings (Foster #17 as it rotates seals openings).

Regarding Claim 13, FILTERSTAR as modified teaches wherein the valve assembly further comprises at least one attachment that fastens to the opening of the valve assembly (Foster Fig. 1 #13).

Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over FILTERSTAR, S/ENS:841553-01 Inlet pipe; S/ENS:841545-01 Outlet pipe; 3

pages in view of U.S. Patent No. 5,542,451 to Foster as applied to claim 31 and 13 above, and further in view of U.S. Patent No. 6,125,791 to Gunderson et al.

Regarding Claims 14 and 15, FILTERSTAR as modified teaches customizability, but is silent on the at least one attachment includes at least one of a ball/socket assembly of hydrojet, wherein the ball/socket assembly comprises a number of interlocking balls and sockets that can be rotated in at least one direction to allow customizability in water flow pattern. However, Gundersen teaches an aquarium with a ball and socket assembly (Gundersen #62B, 65B, 62B and 64B). It would have been obvious to one of ordinary skill in the art to further modify the teachings of FILTERSTAR with the teachings of Gundersen at the time of the invention since the modification is merely the selection of a known alternate equivalent discharge attachment selected for the advantage of controlling the direction of the outflow. It is general knowledge of one of ordinary skill in the art to be motivated to have adjustability/flexibility for the ergonomic ease of fitting within certain space restrictions and for ease of performing maintenance on the system with minimized disruption to the fish. Merely making a modification for the means of adjustability does not present a patentably distinct limitation [*In re Stevens*, 212 F.2d 197, 198, 101 USPQ 284, 285 (CCPA 1954)].

Response to Arguments

Applicant's arguments with respect to claims 1-5, 9,12-18,30-32 have been considered but are moot in view of the new ground(s) of rejection.

FILTERSTAR teaches the general concept of an interchangeable and customizable water intake and outlet for an aquarium. The water intake and outlet of

FILTERSTAR can be positioned in any desirable location within the aquarium. Merely duplicating the number of inlet or outlet ports does not present a patentably distinct limitation. Furthermore, FILTERSTAR teaches the general knowledge that valves can be attached to the assembly inside of the aquarium to regulate flow (FILTERSTAR Fig. G on page 3). Merely applying this general knowledge to the intake assembly is an obvious modification. Foster teaches that it is general knowledge to pull water through the intake at multiple locations within the aquarium and discharge back into the aquarium at multiple locations along with a valve assembly. Examiner maintains that there is sufficient motivation for one of ordinary skill in the art to modify the teachings of FILTERSTAR with the teachings of Foster at the time of the invention to create a natural current as taught by Foster (Foster Col. 10 line 2).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 571-272-6895. The examiner can normally be reached on 7:00am-5:30pm M-Th.

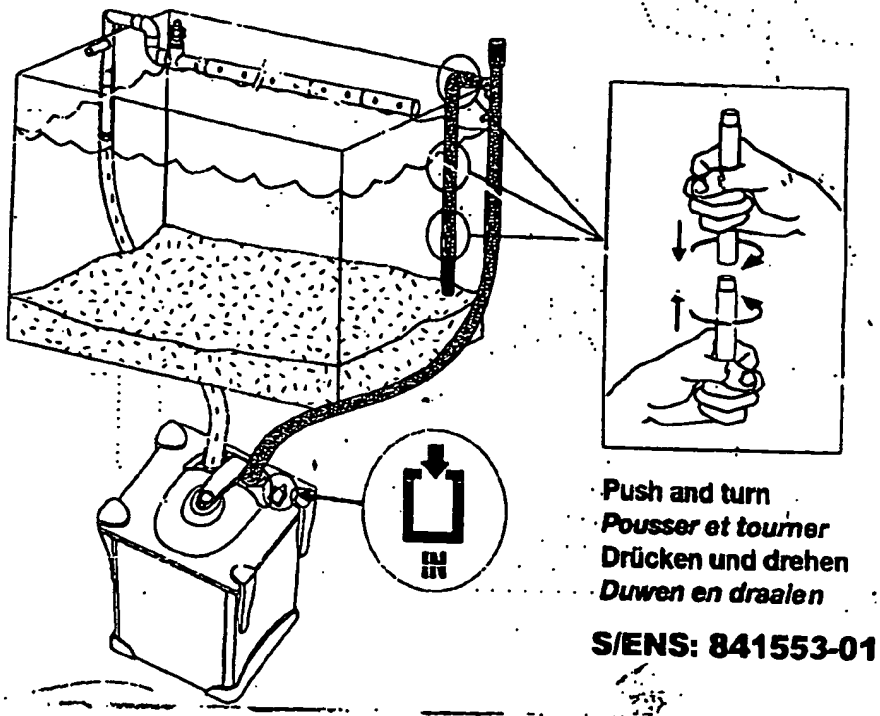
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

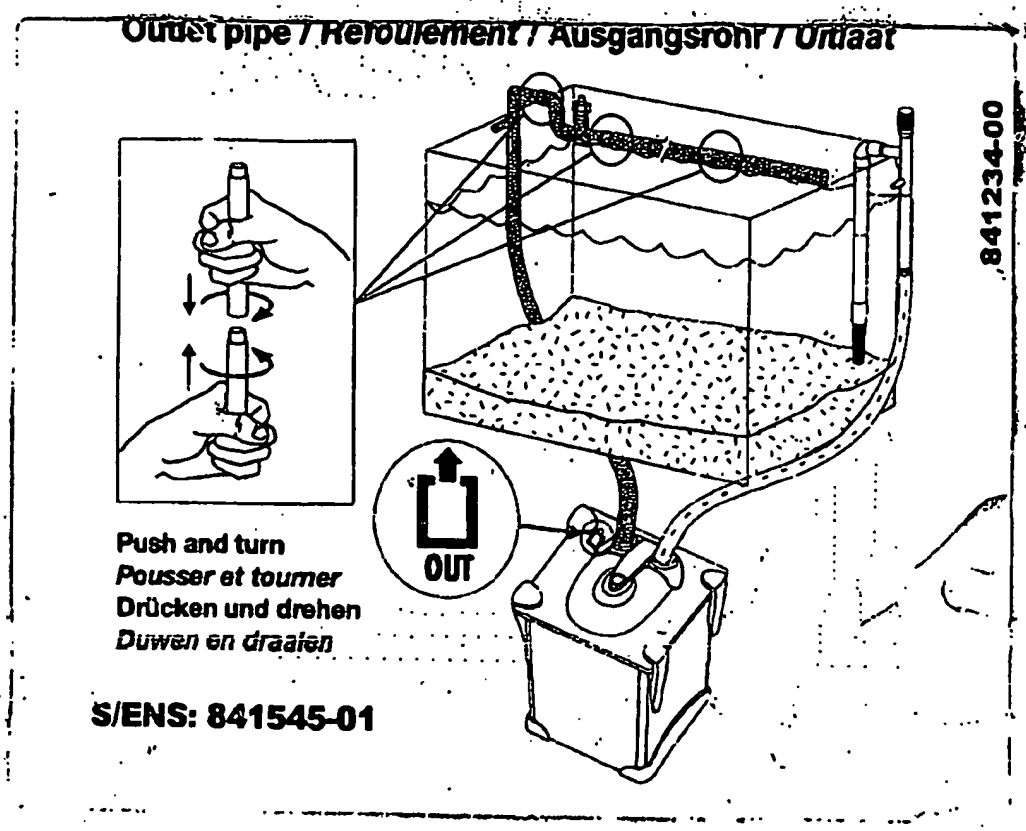
Andrea M. Valenti
Primary Examiner
Art Unit 3643

17 August 2006

Inlet pipe / *Aspiration* / Ansaugrohr / *Aanzuigbuis*

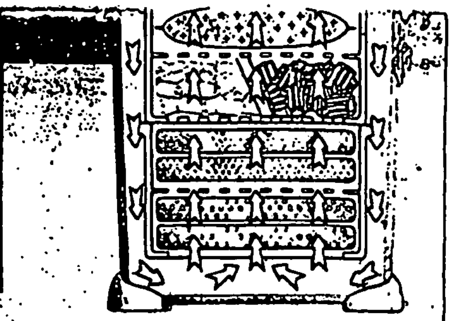


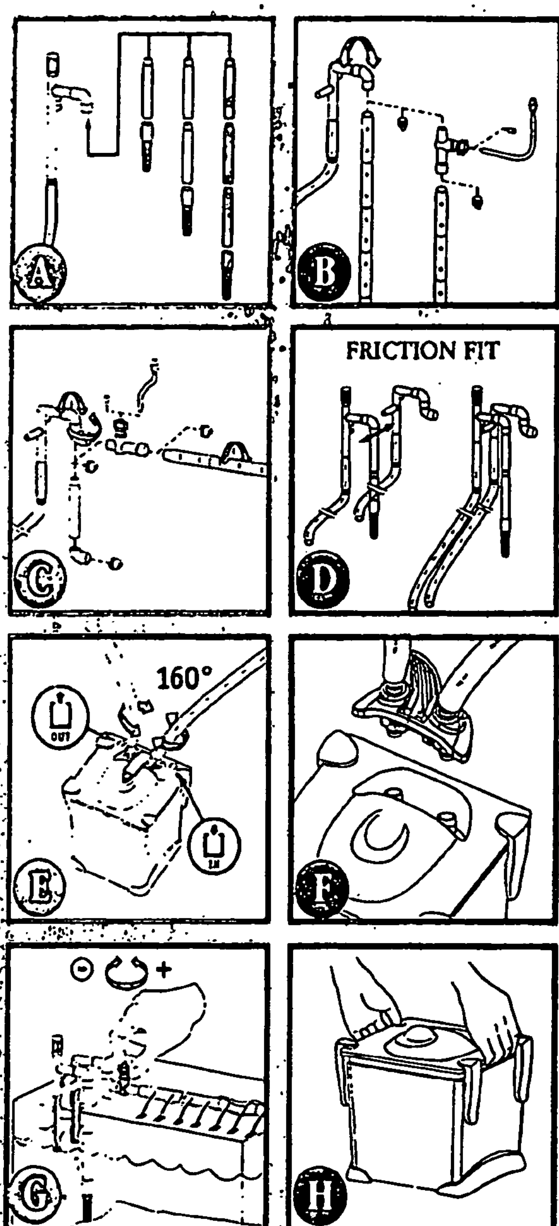
FILTERSTAR



Airflow Adjustment / Système de venturi réglable	✓	✓	✓
Filtration Compartments / Compartiments de filtration	2	4	6
Cell Foam 20 ppi · Mousse 20 ppi	1	2	2
Cell Foam 30 ppi · Mousse 30 ppi	1	2	2
Micro-Filtration Pad · Ouate de Micro-Filtration	1	1	1
Bio-Chem Zorb®**	1	1	1

** The most complete filtration system on the market / le système de filtration le plus complet sur le marché





Easy Installation / Facile à Installer

- Inlet tube with adjustable height (A)
- Modular outlet system allows customization to any aquarium setup (B & C)
- Inlet and outlet can be used together or at opposite ends of aquarium (D)
- Suction cups for secure attachment of tubes (G)
- 160 degree rotation of inlet and outlet nozzles, clearly marked for easy setup and maintenance

- Tube d'arrivée réglable en hauteur (A)
- Tube de sortie multi-directionnel et modulaire pour une installation personnalisée (B et C)
- Installation possible des deux tubes à chaque extrémité ou ensemble d'un même côté de l'aquarium
- Ventouses garantissant le bon maintien des tubes (G)
- Entrée et sortie d'eau orientables à 160° et clairement identifiées sur la cuve facilitant l'installation et l'utilisation du filtre (E)

Easy to Use / Facile à Utiliser

Single control quick disconnect
- Ergonomic grip completely shuts off water flow and allows removal of hoses from filter in one quick step (F)
- Flow control easily accessible from above aquarium (G)

Easy maintenance and cleaning
- Built-in handles for easy carrying during filter maintenance (H)
- Multi-use filtration basket with handles for easy removal and maintenance
- Easy-to-replace, disposable filtration media pouches
- Easily accessible impeller

Un levier de commandes et de déconnexion unique
- Levier ergonomique assurant la fermeture du débit et le déverrouillage du collecteur en un simple geste de la main (F)
- Réglage du débit facilement accessible par le dessus de l'aquarium (G)

Facile d'utilisation et d'entretien
- Poignées intégrées au couvercle pour faciliter le transport de la cuve du filtre lors de son entretien
- Paniers de filtration multi-usage munis de poignées facilitant le retrait et l'entretien des masses filtrantes
- Sachets de masses filtrantes faciles à remplacer
- Rotor facile d'accès

Maximum Performance / Ultra-performant

- Large area for filtration media (125 cu. in. per basket) with separation grid allows efficient 3-filtration: Mechanical, Chemical and Biological
- Bypass-free design ensures optimal flow through media, not around it
- Low speed flow through filter allows maximum contact time for efficient chemical and biological filtration
- Unique sediment collection chamber for the removal of solid wastes
- Long-life shaft, durable in the most severe environments, including saltwater and reef aquariums

- Paniers de filtration de grande capacité (125 cu. in. – 2 Litres) avec grilles de séparation
Système de filtration en 3 étapes: filtration mécanique, chimique et biologique
- Circulation optimale de l'eau à travers toutes les masses de filtrantes, assurant un contact des plus efficaces
- Collecteur de sédiments unique destiné aux déchets solides
- Axe de rotor longue-durée, parfaitement adapté à l'usage en eau de mer

Maximum Reliability / Fiabilité Maximale

- Anti-airlock system – automatically expels air trapped in the filter . . . ensures the automatic repr[...] of the filter after routine maintenance or anytime the filter has been stopped
- Anti-flooding design – Self locking handle prevents flooding from accidental opening
- Anti-slip, noise reduction – Large rubber feet prevent slipping and impact damage, and greatly reduce vibration & noise
- Leak-free security – Barbed inlet and outlet with safety clips ensure perfect, watertight seals
- Anti-overheating security – Special design allows water flow to the motor even if filter media is completely clogged

- Système "anti-airlock" breveté: refoule l'air automatiquement; garantit le rémorçage automatique du filtre [...] l'entretien ou après chaque arrêt
- Sécurité anti-inondation: levier auto-bloquant assurant la fermeture automatique du débit
- Sécurité anti-glisse, anti-choc et anti-bruit: pieds en caoutchouc stabilisant le filtre, le protégeant des coups [...] empêchant les vibrations
- Sécurité anti-fuites: tubes d'arrivée et de sortie cannelés garantissant une parfaite étanchéité
- Sécurité anti-surchauffe: débit intérieur minimum garanti protégeant la pompe en cas de colmatage dû à une [...]

Included

• One height-adjustable inlet tube (extensions and strainer supplied) • One multi-directional outlet system equipped with a spraybar, outlet nozzle, flow adjustment valve and venturi air intake system • Sets of suction cups for securing all tubing and accessories • Two filtration baskets with separation grids • Two 5 ft. lengths of flexible tubing • Two 20 ppi (coarse) open-cell foams • Two 30 ppi (fine) open-cell foams • One micro-filter pad • One 283g Bio-Chem Zorb® Filtration Media Pouch.

Inclus

• Un tube d'arrivée réglable en hauteur (rallonges et crépine